

## Remarks

### **I. Rejection of claims 1-28 under 35 U.S.C. § 103(a)**

Claims 1-28 are pending in the instant application. Claims 1-28 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Currie et al (WO 95/25717-A1 10-1995) and further in view of Hallinan et al. (US 6,344,483 02-2002). For the following reason, the rejection is respectfully traversed.

#### **Hallinan et al. is commonly assigned, and not available as prior art more than one year from the filing of the instant application priority date**

Hallinan et al. was filed on January 31, 2000, and has a 102(e) date of January 31, 2000. The PCT publication date for Hallinan et al. was September 16, 1999. The instant application was filed on April 13, 2001, based upon a provisional application filed April 13, 2000. Therefore, Hallinan et al. was published less than one year from the filing of the instant application priority date.

Hallinan et al. was assigned to G.D. Searle & Co., Chicago IL. G.D. Searle & Co. is the predecessor in interest to Pharmacia Corporation, to which the instant application is assigned. Each of the inventors in Hallinan et al. and the instant application were under an obligation to assign their rights to G.D. Searle & Co., or Pharmacia Corporation (as successor in interest to G.D. Searle & Co.). Therefore, 35 U.S.C. § 103(c) applies to the instant rejection, since Hallinan et al. could only be asserted as 102(e) prior art.

### **II. Obviousness-type Double Patenting**

Claims 1-28 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-202 of co-pending application serial number 09/952,888 in view of Currie et al.

Without acquiescing to the propriety of such a rejection, applicants file herewith a provisional terminal disclaimer that is believed to overcome this rejection.

## **Conclusion**

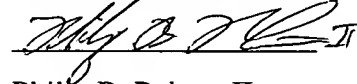
In view of the above, it is submitted that Claims 1-28 are in condition for

allowance. Reconsideration of the rejections and objections is requested, and allowance of Claims 1-28 at an early date is solicited.

If the Examiner believes a telephonic interview with Applicant's representative would aid in the prosecution of this application, he is cordially invited to contact Applicant's representative at the below listed number.

Pharmacia Corporation  
Corporate Patent Department O4E  
800 North Lindbergh Boulevard  
St. Louis, Missouri 63167

Respectfully submitted,



Philip B. Polster II  
Reg. No. 43,864  
(314) 694-9094  
(314) 694-9095 (facsimile)